



MISSOULA

COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

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March 16, 2021

Kody Swartz
Woith Engineering, Inc.
3860 O'Leary Street, Suite A
Missoula, MT 59808

RE: Mcnett Flats Major Subdivision, Annexation, and Zoning Upon Annexation

Dear Mr. Swartz,

At its regularly scheduled meeting of March 8, 2021 the Missoula City Council voted to annex Tract 8A of Certificate of Survey No. 6109 into the municipal boundaries and apply the B2-2 Community Business zoning, subject to the conditions of annexation; and to approve the Mcnett Flats Subdivision, subject to the conditions in the attached document entitled "Conditions of Approval." The reasons for the decision to approve the subdivision, including the imposition of conditions of approval, may be found in the attached document entitled "Findings of Fact and Conclusions of Law." The Resolution to Annex with conditions of annexation is attached, and will be assigned a resolution number and placed on the City's website here: <http://www.ci.missoula.mt.us/DocumentCenter/View/949/Resolution-Index-and-Resolutions?bidId=>

As part of these actions the City Council approved the following motions:

1. **ADOPT** a resolution to annex and incorporate within the boundaries of the City of Missoula, Montana a certain parcel of land described as Tract 8A of Certificate of Survey No. 6109 in Section 12, Township 13 North, Range 20 West, P.M.M., and zone the property B2-2 Community Business in the city, based on the findings of fact in the staff report, subject to the recommended conditions of annexation approval as amended by City Council.
2. **APPROVE** the variance request from Section 3-020 Table .2A, which requires a minimum 90-foot right-of-way for an Urban Collector with Parking, to allow an 80-foot right-of-way for George Elmer Drive.
3. **APPROVE** the variance request from Section 3-020 Table .2A, which requires a minimum 80-foot right-of-way for an Urban Local Street, to allow a 64-foot right-of-way for Old Ranch Road.
4. **APPROVE** the variance request from Section 3-020 Table .2A, which requires a minimum 80-foot right-of-way for Urban Local Street, to allow 64-foot rights-of-way for Winchester Drive, Briar Way, Remington Drive, and Abby Lane.
5. **APPROVE** the variance request from Section 3-030.2.A(2) to allow a block length longer than 480 feet on Lot 1.

6. **APPROVE** the variance request from Section 3-030.2.A(2) to allow a block length longer than 480 feet on Lot 6.
7. **APPROVE** the variance request from Section 3-020.3.H(2), which requires dedication of right-of-way on abutting existing streets to meet the requirements of Table .2 A, to allow a 54-foot right-of-way to be maintained on Pius Way.
8. **APPROVE** the Mcnett Flats Subdivision, based on the findings of fact and subject to the recommended conditions of approval in the staff report as amended by City Council.

If you wish to appeal this decision on the subdivision, you must follow the procedure established by M.C.A. §76-3-625(2), which states as follows:

A party . . . who is aggrieved by a decision of the governing body to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days after the decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

The statute includes the applicant within the definition of an aggrieved party.

If you have further questions, please contact me at 406-552-3091 or email me at gluckine@ci.missoula.mt.us.

Sincerely,

Emily Gluckin

Emily Gluckin, Associate Planner
Community Planning, Development & Innovation

CC: Nate Tollefson, Tollefson Properties, LLC
Eran Pehan, CPDI
Mary McCrea, CPDI
Marty Rehbein, City Clerk
Troy Monroe, Public Works & Mobility
Eric Anderson, Public Works & Mobility
Ida Sajor, Public Works & Mobility
Neil Miner, Parks & Recreation

CONDITIONS OF APPROVAL
MCNETT FLATS SUBDIVISION
March 8, 2021

Note: Montana Code Annotated (MCA) Section 76-3-604(9)(a) states review and approval, conditional approval, or denial of a proposed subdivision may occur only under those regulations in effect at the time a subdivision application is determined to contain sufficient information for review. The Mcnett Flats Subdivision application was deemed sufficient for review on December 3, 2020. The City of Missoula Subdivision Regulations Amended June 28, 2010 and the 2019 Montana Subdivision and Platting Act were in effect at that time.

Agricultural Water Users Facilities

1. On the face of the plat the applicant shall grant a 20-foot wide irrigation easement centered on the private irrigation ditch running along length of the east property boundary for the benefit of the Hellgate Valley Irrigation Company, its heirs and assigns, and water rights holders with legal access to irrigation water from the ditch. The easement language shall stipulate the purpose is for ditch and culvert access, maintenance, repair, and replacement and shall run with the land.
2. The applicant shall install an approximately 105-foot long buried steel culvert under Abby Lane with capacity to carry irrigation water flows in historic volumes, and shall also culvert the ditch in the southeastern corner of the property under the Tipperary Way Trail extension. The applicant shall provide approval from the Hellgate Valley Irrigation Company of the culverts and installation prior to final plat submittal.
3. The applicant shall relocate the irrigation pipe at the northwest corner of the property to ensure the property owner(s) to the north of the subdivision is able to receive irrigation water in an undiminished, historic fashion. The applicant shall provide confirmation from the applicable property owner(s) prior to final plat submittal.

Transportation - General

4. All street and non-motorized improvements shall be designed and built in accordance with City of Missoula Public Works Standards and Specifications and City of Missoula Subdivision Regulations (except as modified by variance). All plans must comply with Americans with Disabilities Act requirements. All plans must be reviewed and approved by the Public Works and Mobility Department in accordance with City policies.
5. The applicant shall provide a street naming exhibit to be reviewed and approved by the Public Works & Mobility Department prior to final plat application submittal.
6. The applicant shall provide a street signage plan in accordance with the Manual on Uniform Traffic Control Devices to be reviewed and approved by the Public Works and Mobility Department prior to final plat application submittal.
7. The following statement shall appear on the face of the plat, in the covenants, and on each instrument of conveyance: "Acceptance of a deed for a lot within this subdivision constitutes the owner's assent to any future SID, based on benefit, for future improvements and maintenance to Briar Way, Winchester Drive, Remington Drive, Abby Lane, George Elmer Drive, and Old Ranch Road, including but not limited to the

installation of paving, drainage facilities, curbs and gutters, traffic control devices, motorized and non-motorized facilities, street widening, and all streets within, and providing access to, the property.”

8. All proposed rights-of-way shall be dedicated to the public on the face of the final plat and approved by the City Engineer.
9. All proposed easements, except as modified by these conditions, shall be shown on the face of the final plat and identified for their width and purpose, including easements for vehicular and pedestrian access, utilities, and irrigation ditches. Note: A 10-foot wide public access easement from Remington Drive to the south property boundary through Lot 6 does not need to be shown on the final plat due to the trail easement discussed in condition #22.
10. Prior to submittal of the final plat application, the applicant shall petition the City of Missoula to create a new street light improvement district and shall install street lighting within the subdivision along George Elmer Drive in accordance with the Missoula Public Works Standards and Specifications Manual.

Specific Streets

11. The Mcnett Flats Subdivision is located within the Mullan BUILD project area and George Elmer Drive, which provides access to the subdivision property, is planned to be improved as part of the Mullan BUILD project. Federal funds are planned to pay for a portion of the Mullan BUILD improvements. Funding mechanisms are currently being explored to pay for the remainder of the improvements. The funding mechanisms may include, but are not limited to, a special improvement district, impact fee, latecomers fee, or cost share agreements that allow the City of Missoula and Missoula County to recover the cost of constructing infrastructure from the properties that benefit from the Mullan BUILD project. To the extent that such funding mechanism(s) is created in accordance with state law and applicable principles of land use law, the applicant, successors, and assigns shall participate in and be bound by the fees assessed and not oppose the creation of or participation in such a district.
12. As authorized by variance, the right-of-way for George Elmer Drive may remain 80 feet wide through the subdivision. However, the applicant shall provide five-foot public access and utility easements on both sides of George Elmer Drive on the final plat.
13. The subdivider shall pay a proportionate share of the remaining costs for a future roundabout design and construction at the intersection of George Elmer Drive and Cattle Drive. The proportionate share shall be based on the projected percentage of vehicle trips for this subdivision at the George Elmer Drive / Cattle Drive intersection, compared to overall vehicle trips for full build-out at the George Elmer Drive / Cattle Drive intersection within the area of benefit. The proportionate share percentage as defined above shall be multiplied by the total amount of remaining design and construction costs to complete the intersection improvements to arrive at the Mcnett Flats subdivision proportional costs. The amount of remaining costs shall be based on a cost estimate provided by Public Works & Mobility. The methodology and assumptions used to determine the area of benefit and proportionate share of vehicle trips shall be provided by the applicant and reviewed and approved by Public Works & Mobility.

Payment of proportionate share costs shall be provided by the applicant to the City in the form of a cashier's check prior to or in conjunction with final plat application submittal.

14. Winchester Drive, Remington Drive, Briar Way, Abby Lane and Old Ranch Road shall be designed and built as proposed to Urban Local street standards including at minimum two 10-foot drive lanes, 8-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks within 64-foot rights-of-way.
15. Prior to final plat application submittal Pius Way shall be improved as proposed on the Pius Way Improvements Exhibit including half-street improvements to bring the pavement width up to 31 feet, intersection bulb-outs, a 12-foot wide landscaped boulevard, and 10-foot asphalt surfaced commuter trail within the public access easements on Lots 4 and 5 as depicted on the preliminary plat and Pius Way Improvements Exhibit.

Non-Motorized Transportation Facilities

16. Except for along the north side of Pius Way, the applicant shall provide at minimum 5-foot wide sidewalks within the proposed public access and utility easements along all street frontages. Along Pius Way, the applicant shall provide a 10-foot Secondary Commuter Trail within a public access easement. The final plat shall show the proposed 1-foot no access easement along the south property boundary along Lots 5 and 4. The trail shall be constructed as shown on the preliminary plat and Pius Way Improvements Exhibit except as modified by Condition #22. All sidewalk and trail plans, including specifications for ADA accessibility, safe street crossings, and maintenance, shall be reviewed and approved by the Public Works & Mobility and Parks and Recreation departments prior to construction with final approval provided provide with the final plat application submittal.

Transit

17. The applicant shall petition for the property to be included in the Missoula Urban Transportation District prior to final plat application submittal. City Subdivision Regulations Section 3-010.7 and 3-020.1, City of Missoula Annexation Policy

Fire Protection

18. The applicant shall provide a final fire hydrant plan for review and approval prior to final plat application submittal. All approved fire protection improvements shall be installed in accordance with the approved plan.

Drainage

19. The applicant shall submit complete grading and drainage plans prior to final plat application submittal showing proposed grades of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks, and other areas meeting Montana DEQ standards and subject to approval of the City Engineer. All drainage facilities shall be constructed in accordance with the approved plan and accommodate the planned post-development runoff.

Water System and Sewer System

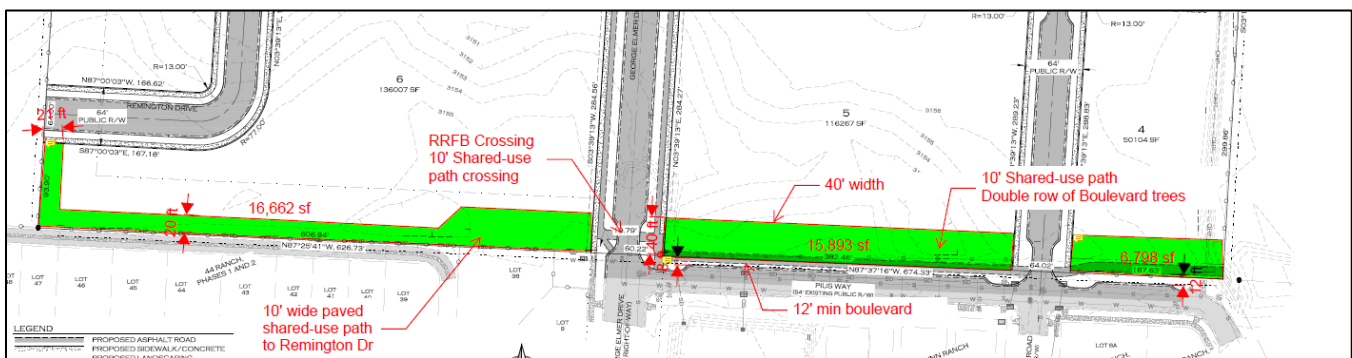
20. The applicant shall submit plans for water supply and sewage disposal for review and approval of the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final platting. Construction of all water supply and sewer systems shall be in accordance with City policies.

Solid Waste

21. The applicant shall submit plans for solid waste disposal for review and approval of the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final plat application submittal.

Parkland

22. The applicant shall meet the parkland dedication requirement by providing a 20-foot wide multi-use trail easement extending south from Remington Drive to the southwest corner of the subdivision, then east along the south boundary of Lot 6 until adjacent to the southern bend in the alley west of Lot 38 of 44 Ranch Subdivision Phases 1 and 2, where it shall transition into a 40-foot wide multi-user trail easement extending to the east boundary of the subdivision (see sketch below). Within the easement the developer shall construct a 10-foot wide multi-use trail meeting the requirements of the Parks and Recreation Department. The remainder of required parkland dedication shall be provided with cash in-lieu of parkland. As proposed by the applicant, if multi-dwelling or mixed-use development that includes 10 or more dwelling units occurs on Lot 2, 3, 4, or 5, the activity area shall be provided meeting the requirements of Title 20 Section 20.65.020(C). However, if activity area is required on either Lot 4 or 5, the 40-foot wide easement shall be counted toward the activity area requirement. The applicant shall submit a letter of approval from Parks and Recreation addressing common area requirements for design, vegetation, construction, and maintenance prior to final plat application submittal.



23. The applicant shall submit a boulevard landscaping and maintenance plan to be reviewed and approved by the City Parks and Recreation Department prior to final plat application submittal.

Noxious Weeds

24. The Weed Management and Revegetation Plan for the Mcnett Flats Subdivision shall be appended to the covenants, conditions and restrictions. The applicant shall provide evidence of plan implementation and noxious weed control prior to final plat filing.

Airport Influence Area

25. The final plat shall include the following statement: "This property is in the airport influence area and subject to the requirements of the Airport Influence Area Resolution. The Mcnett Flats Subdivision may also be within an extended approach and departure zone and lot owners should be aware of the resultant safety risk. Lot owners should consult the airport layout plan and any relevant documents to determine the status of the proposed runway location at the time of purchase."

Covenants, Conditions, and Restrictions

26. Final covenants, conditions, and restrictions meeting the requirements of City Subdivision Regulations Section 5-020-14.K shall be submitted for review and approval along with the final plat application. The covenants shall include a prohibition on basements and wood burning devices, the aviation easement and airport influence area notification to lot purchasers, address noxious weed control, provide agricultural, airport influence area, and radon gas notification statements, and other elements proposed in the draft submitted with the preliminary plat application and described in these conditions.

Additional Condition of Annexation

27. The B2-2 Community Business zoning designation shall be adopted concurrent with City Council approval of the preliminary plat application based on the findings of fact and conclusions of law in the staff report.

FINDINGS OF FACT & CONCLUSIONS OF LAW
MCNETT FLATS SUBDIVISION
March 8, 2021

A. GROWTH POLICY COMPLIANCE

Findings of Fact:

1. The 2035 Our Missoula Growth Policy future land use map provides a base land use designation for the property of Neighborhood Mixed-Use. Areas designated Neighborhood Mixed-Use are intended to distinguish, create, maintain, and enhance areas that provide primarily local service within a neighborhood. These areas support and help give an identity to individual or small groupings of neighborhoods by providing a visible and distinctive focal point. Neighborhood Mixed-Use is characterized by commercial uses, including retail, offices, entertainment, professional services, eating and drinking, and shopfront retail at a small neighborhood scale. High density residential development is encouraged in this land use designation. (*2035 City Growth Policy page 119*)
2. The Growth Policy future land use map also designates the subject property as being within the Node Development Overlay. Nodes are identified as areas for concentrated mixed-use pedestrian friendly development that create focal points for community gathering and transit. Nodes reflect areas with the potential for limited mixture of uses at crossroads leading into or part of a neighborhood; the potential to bring together multi-modal transportation activities and future transit-oriented development; and the potential to emphasize pedestrian-friendly streetscape development. Office, retail, and residential uses are recommended to be integrated. (*2035 City Growth Policy page 125*)
3. Zoning districts that relate to the Neighborhood Mixed-Use designation are B1-1, B2-1, B2-2, and M1R-2. The applicant has requested B2-2 Community Business be applied to the property. (*2035 City Growth Policy page 119, Application Project Summary*)
4. Permitted land uses in the B2-2 Community Business zoning district include mixed-use and single-purpose residential buildings, group living, day cares, pre-schools, and schools, religious assembly, restaurants, business support services, financial services, medical and professional offices, laundry services, and retail sales, among others. (*Title 20 Table 20.10-1*)
5. There is no minimum lot size in the B2-2 Community Business zoning district, although single-purpose residential buildings and mixed-use buildings must have at least 1,000 square feet per unit. No building setbacks would be required and the maximum building height in this district is 50 feet. Other elements of Title 20 zoning such as requirements for onsite parking, building design, and landscaping apply.
6. The preliminary plat application states the subdivision is intended to create “7 Mixed-use Commercial Lots.” The Traffic Impact Study - 2020 Update submitted with the application states, “The proposed B2-2 zoning will allow the land uses of the parcels

within the proposed subdivision to maintain flexibility to meet variable current and future market needs.” (*Project Summary pages 2-3, Traffic Impact Study page 8*)

Conclusions of Law

1. The property is located within an area designated as Neighborhood Mixed-Use on the 2035 Our Missoula Growth Policy future land use map.
2. The B2-2 Community Business zoning is a current relatable district with the Neighborhood Mixed-Use land use designation.
3. City Council found that the proposed lots comply with the parcel standards of the B2-2 Community Business zoning district.
4. City Council found that the Mcnett Flats subdivision substantially complies with the 2035 Our Missoula Growth Policy and proposed B2-2 Community Business zoning district.

B. PRIMARY CRITERIA COMPLIANCE

CRITERION 1: EFFECTS ON AGRICULTURE & AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

Agriculture

1. The USDA Natural Resources Conservation Service lists one type of soil on this tract: Desmet loam. This soil type is classified as “Prime Farmland if Irrigated.” (*Subdivision Application page 9, NRCS Custom Soil Report*)
2. Approximately 17 acres of the 20.21-acre property have been used for hay and alfalfa production. Parcels to the north and northwest are currently used for agriculture. The parcel to the east appears to have been used for agriculture but the application states it is not currently. Parcels to the south and west are currently used for or planed for urban residential development. (*Subdivision Application page 8, Vegetation Map*)
3. The property is currently zoned by Missoula County as C-RR1 Residential, which is a transitional district providing a maximum residential density of one dwelling unit per acre. The existence of County residential zoning on the parcel anticipates a land use of residential rather than agricultural. The Our Missoula City Growth Policy designates the property for urban scale mixed-use development. (*Subdivision Application page 3, Zoning Map, City Growth Policy*)
4. Covenants, conditions, and restrictions submitted with the application include sections requiring control of noxious weeds prior to, during, and after lot development, and provide notice to lot purchasers of ongoing adjacent agricultural activities.

Agricultural Water User Facilities

1. An irrigation ditch runs along the east property boundary. This ditch provides water to properties to the north and west. To maintain flows and ensure opportunities for future maintenance, the subdivider proposes to provide a 20-foot wide irrigation ditch

easement along the length of the ditch. Under Abby Lane, the subdivider will route irrigation water through an approximately 105-foot long buried steel culvert. The environmental assessment states the culvert will ensure the full flow of the ditch can be accommodated without flooding. A culvert would have to be installed in the southeastern corner of the subdivision as well where the proposed Tipperary Way Trail extension is proposed to be located. (*Preliminary plat, Environmental Assessment pages 4-7*)

2. The property contains buried irrigation pipe, risers, and a wheel line. These facilities will be removed to allow for site development. An irrigation pipe is located at the northwest corner of the property. This pipe is planned to be relocated to the next connection riser to the north so water can still be provided on the adjacent property in a customary fashion. The preliminary construction plans state the contractor shall obtain written approval from the irrigation system owner (Hellgate Valley Irrigation Ditch Company) prior to disturbing any existing irrigation facilities. (*Preliminary Construction Plans Existing Conditions Exhibit and Demolition Plan, Environmental Assessment pages 4-7*)
3. The environmental assessment states, "According to the Montana Department of Natural Resources and Conservation Water Rights Query System, there are no existing water rights associated with the subdivision property." A warranty deed dated May 5, 2007 for the property indicates when this parcel and the Flynn Ranch Subdivision parcel to the south were sold, any water rights and ditch rights appurtenant to or used on the property were not transferred along with the property. The application also states the subdivision property has no existing water rights. (*Environmental Assessment page 6, Warranty Deed Document No. 200706526, Subdivision Application page 10*)

Conclusions of Law:

1. The property has been used for agriculture and is located in an area of historic and ongoing agricultural production.
2. Subdivision will remove approximately 17 acres of high-quality production land from the local agricultural land inventory.
3. The land was historically irrigated but no longer has water rights.
4. The land is planned for urban development. Land uses in this area are transitioning from rural agricultural to urban residential and mixed-use.
5. City Council found that the subdivider's proposals to manage noxious weeds and notify lot purchasers of surrounding agricultural land use are appropriate.
6. City Council found that the subdivider's proposals to provide a 20-foot ditch easement and culvert along the east boundary and move the irrigation pipe in the northwest corner in conjunction with the irrigation system owner and adjacent property owner will lessen impacts to agriculture water user facilities.

CRITERION 2: EFFECTS ON LOCAL SERVICES

Transportation Findings of Fact:

Street Improvements

1. Access to the subdivision will be from George Elmer Drive, Old Ranch Road, Winchester Drive, Remington Drive, Briar Way, and Abby Lane. Except for George Elmer Drive (addressed below), the subdivider will be responsible for designing and building all of the transportation facilities within the subdivision in accordance with City Public Works Standards and Specifications and the City Subdivision Regulations (except as modified by variance). The plans must comply with Americans with Disabilities Act requirements and be approved by the Public Works and Mobility department. (*Project Summary, Preliminary Plat, Subdivision Regulations Section 3-020.2.*)
2. The Mcnett Flats Subdivision is located within the Mullan BUILD Project area and George Elmer Drive, which provides access to the subdivision property, is planned to be improved as part of the Mullan BUILD Project. Federal funds are planned to pay for a portion of Mullan BUILD improvements. Other funding mechanisms, such as a special improvement district, local impact fee district, and others are currently being explored to recover the remaining portion of project costs. Due to anticipated impacts on George Elmer Drive and related facilities from this subdivision, the subdivider is required to participate in cost sharing for these improvements, as recommended in a condition of approval. (*Traffic Impact Study page 5, Montana Code Annotated 76-3-510*)
3. The existing publicly dedicated right-of-way for George Elmer Drive extending northward from Mullan Road through the subject property is 80 feet wide. City Council approved a variance to utilize the existing 80-foot public right-of-way as opposed to the required 90 feet for an Urban Collector, while providing an additional 5-foot wide public access and utility easement along both sides of the street, as discussed below. (*Certificate of Survey No. 3176, Variance Request No. 1*)
4. A roundabout is planned to help maintain smooth traffic flow at the intersection of George Elmer Drive and Cattle Drive south of the subdivision. The traffic impact study supports the need for this improvement, stating, "The developers should contribute to the installation of a roundabout at the intersection of Cattle Drive and George Elmer Drive" based on anticipated traffic projections. Some of the project expenses have already been incurred so condition of approval #13 requires the subdivider pay a proportionate share for the remaining roundabout design and construction costs prior to final plat application submittal, with the methodology and background assumptions to be reviewed and approved by Public Works & Mobility. (*Traffic Impact Study page 1 and 10*)
5. Winchester Drive, Remington Drive, Briar Way, Abby Lane, Old Ranch Road, and Pius Way will provide access the subdivision lots. These streets are considered Urban Local streets based on anticipated traffic volumes of less than 2,500 trips per day. City of Missoula Subdivision Regulations Table .2A shows Urban Local streets with a minimum 80-foot wide right-of-way that includes two 10-foot drive lanes, 8-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks

(approximately 62 feet total). City Council approved variances for these streets to reduce the right-of-way from 80 to 64 feet in width, and for Pius Way to maintain its current 54-foot width plus additional easement to accommodate a trail, as discussed below. (*Subdivision Regulations, Table .2A, Variance Requests No. 2, 3, and 6*)

6. Street names are provided on the preliminary plat. Section 3-020.12 of the City Subdivision Regulations requires the street naming plan to be reviewed and approved prior to final plat approval. This requirement is reflected in a condition of preliminary plat approval. (*Preliminary Plat, City Subdivision Regulations Section 3-020.12*)
7. Section 3-020.4(H)(2) of the City Subdivision Regulations requires street signs and traffic control devices to be approved by the City Engineer and consistent with the Manual on Uniform Traffic Control Devices adopted by the Montana Department of Transportation. Condition of approval #6 requires signage plans to be reviewed and approved by City Fire and the City Engineer and installation of signage meeting the above-named standards prior to final plat filing.
8. All streets rights-of-way will be dedicated to the public. Section 3-020.3(A)(1) of the City Subdivision regulations requires each public road to provide for construction and perpetual maintenance of the road. Section 5-050.4(M & N) of the City Subdivision regulations requires the Special Improvement District (SID) statement to be provided on the plat and on each instrument of conveyance. Condition of approval #7 is to require a SID statement on the plat and in the subdivision covenants for future improvements and maintenance to all streets providing access to the subdivision lots.
9. Section 3-060.1 of the City Subdivision Regulations requires easements be provided for vehicular and pedestrian access, utilities, and irrigation ditches and City Engineer approval of the easements. Condition of approval #9 requires that the location and width of all easements including streets, utilities, and the irrigation ditch shall be approved by the City Engineer prior to final plat application submittal.
10. The Missoula Public Works Standards and Specifications state the need for street lighting shall be considered for all new streets based on functional classification, traffic volumes, and other factors. Consistent with other developments slated to occur along Urban Collectors, City Council required street lighting along George Elmer Drive, with maintenance to occur through a lighting district. Condition of approval #10 requires the subdivider to petition to create a street lighting district and install street lighting along George Elmer Drive along the property. (*Missoula Public Works Standards and Specifications Manual Section 7.3.6*)

Active Transportation

11. City Subdivision Regulations Section 3-020.15 requires a minimum of 5-foot wide sidewalks and 7-foot wide boulevards adjacent to Urban Collector and Urban Local streets in accordance with Table .2A.
12. The preliminary plat shows 5-foot sidewalks and 7-foot boulevards along all streets except for the north side of Pius Way.

13. One of the trails planned in the Mullan BUILD Project is the Tipperary Way Trail. South of Mcnett Flats, this trail is planned to run along the east side of George Elmer Drive. At the intersection of George Elmer Drive and Pius Way, this trail is planned to run east along the south boundary of Lots 5 and 4, where it is planned to cross the irrigation ditch and leave the subdivision property.
(<http://mullanbuild.com/improvements-1>)
14. Along the subject property, Tipperary Way Trail will be separated from the street by a 12-foot landscaped boulevard along Lot 4 and Lot 5. The trail will be 10 feet wide and paved with asphalt. The plat shows a 1-foot no access easement south of the trail to ensure no driveways are installed that would conflict with pedestrian and bicyclist movement. (*Pius Way Improvements Exhibit, Parks and Trails Sketch approved by City Council*)

Transit

15. Section 3-010.7 and 3-020.1 of the City Subdivision Regulations require subdividers to provide safe, efficient, and convenient transportation corridors for motorists, pedestrians, bicyclists and bus riders. Section 3-020.4.E requires subdivision circulation systems to provide for various modes of transportation such as automobiles, pedestrians, bicycles, buses, and emergency vehicles. The City of Missoula Annexation Policy states that where appropriate, proposed annexation areas should be continuous to join the Missoula Urban Transportation District
16. The property is not currently within the Missoula Urban Transportation District, which is necessary to provide for future transit service. A condition of approval is the subdivider be required to petition into the district prior to final plat application submittal. (Missoula Urban Transportation District Parcel Viewer online map)

Conclusions of Law:

1. City Council found that the preliminary plat application meets the City Subdivision Regulations requirements for streets, active transportation facilities, and transit based on the approval of the variance requests and the conditions of approval.

Fire and Emergency Responses Finding of Fact:

1. The Missoula City Fire Department will serve the subdivision. The closest station is located at 3011 Latimer Street, approximately three miles away. (*Subdivision Application page 27*)
2. Subdivision Regulations Section 3-070.1 requires that water supply for fire protection be provided via a public or community water system with 1,000 gallons per minute minimum flow, or via residential sprinkler systems.
3. The preliminary plat application includes a fire hydrant layout plan showing existing and proposed hydrants intended to serve the subdivision. The plan includes five new hydrants and was approved by Dax Fraser of Missoula Fire. Condition of approval #18 requires the developer to provide final approval of a hydrant plan and installation of all hydrants prior to preliminary plat application submittal. (*Subdivision Regulations Section 3-010.1F*)

4. The subdivision is located within the jurisdiction of the Missoula Police Department and City-County Office of Emergency Management. No comments on the application were received from the Police Department or Office of Emergency Management. (*Subdivision Application page 27*).

Conclusions of Law:

1. City Council determined that fire service is available to the subdivision if the relevant condition of approval is imposed and met.
2. The subdivision is located within the jurisdiction of the Missoula Police Department and Office of Emergency Management.

Grading, Drainage, and Stormwater Utilities Findings of Fact:

1. Slopes across the property are generally less than 5%, with higher slopes up to 15% in the area of the former Grant Creek channel, which was re-routed in the 1950s. (*Subdivision Application page 14*)
2. The City of Missoula Storm Water Specifications and Design Standards and Section 3-040 of the City Subdivision Regulations provide minimum standards for site grading and control of stormwater runoff.
3. The subdivision application submittal contains a grading and drainage report that evaluates pre- and post-development conditions. The proposed methods of managing storm runoff include grading the site and developing a system curbs and gutters along streets and drywell sumps and bioretention basins to collect and infiltrate runoff. (*Storm Drainage Report*)
4. Section 3-040.2 and Section 5-020.11 of the City Subdivision Regulations require a complete grading and drainage plan showing proposed grades of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks, and other areas to be submitted prior to final plat approval meeting Montana DEQ standards and subject to approval of the City Engineer. All drainage facilities must be constructed in accordance with the approved plan as per Section 5-020.11.B prior to final plat application submittal. A condition of approval reflects these requirements.
5. The subdivision application submittal contains a hydrogeologic evaluation (technical memorandum) and an addendum to the evaluation that assess the potential effects of drywell sumps on water table elevations, the potential for infiltration of runoff via sumps to flood crawl spaces or basements on the property and surrounding area, and whether use of sumps is likely to have an adverse impact on groundwater quality. The analysis concludes that drywell sumps would result in minimal (less than one foot) mounding of groundwater under and near the site, even during a simulated 100-year flood event. It also concludes that during such an extreme event, groundwater could rise to within 13-17 feet of the ground surface so basements are not recommended. Finally, the memorandum concludes the use of sumps will not result in significant water quality impacts. (*Newfields Technical Memorandum and Addendum*)

Conclusions of Law:

1. City Council determined that the subdivision will meet the City of Missoula Storm Water Specifications and Design Standards and grading and drainage standards if the condition of approval is imposed and met.
2. Final grading, drainage, and stormwater plans will be reviewed and approved by Montana DEQ and the City Engineer prior to final plat application submittal.

Water and Sewer Utilities and Solid Waste Service Findings of Fact:

1. The property is within the Missoula Wastewater Facility Service Area and planned to be connected to existing water and sanitary sewer mains in the adjacent 44 Ranch, Flynn Ranch, and Remington Flats Subdivisions. (*Utility Plan Exhibit, Subdivision Application page 25, Water and Sewer Design Reports*)
2. The subdivision application submittal includes water and sanitation reports. City of Missoula Development Services Engineering Division provided a letter stating the intent to provide water and sewer service to the subdivision. (*Water and Sewer Design Reports, Utility Plan Exhibits, August 25, 2020 Letter from Missoula Development Services*)
3. As per Sections 3-070.01 and 3-070.04 of the City Subdivision Regulations, water supply and sewage disposal systems require review and approval from the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final platting. This is a condition of approval.
4. Republic Services is the local solid waste service provider. Comments on the subdivision were requested from Republic Services but none were received. (*Subdivision Application page 23, element and sufficiency comment request letters*)

Conclusions of Law:

1. City Council determined that city water and sewer and private solid waste collection services are available to the subdivision.
2. Review of water, sewer, and solid waste systems is under the jurisdiction of City Engineering and state and local health authorities as per the Montana Sanitation in Subdivision Act.
3. City Council determined that water, sewer, and solid waste collection systems will meet the regulations if the conditions of approval are imposed and met.

Parkland Dedication, Boulevard Landscaping, and Weed Control Findings of Fact:

1. Section 3-080 of the City Subdivision Regulations requires parkland dedication for residential subdivisions. In this case, because the proposed B2-2 Community Business zoning district permits residential development including single-purpose residential buildings, parkland dedication requirements must be met.
2. Section 3-080.3 of the City Subdivision Regulations states the parkland dedication must be based on the net lotted area of the subdivision, which excludes area in street rights-of-way.

3. Sections 3-080.4.C and D of the City Subdivision Regulations state when the land is proposed to be subdivided into lots larger than one acre and not larger than three acres, and when the net residential density of future development is not known at the time of preliminary plat review, then the subdivider must dedicate to the City land or cash based upon the units per acre allowed by the applicable zoning multiplied by 0.02 acres, but not in excess of 10 dwelling units per acre.
4. The total net lotted area in this subdivision is 15.35 acres. $15.35 \text{ acres} \times 0.02 \text{ acres} \times 10 = 3.07 \text{ acres}$, which is the parkland dedication requirement in this subdivision. (*Subdivision Application page 28*)
5. The Parks and Recreation Department indicated that cash in lieu of parkland is acceptable for the portion of the subdivision west of George Elmer Drive because it is in the 44 Ranch Park service area. However, because George Elmer Drive is classified as an Urban Collector and considered a barrier to pedestrian movement, and because the area to the east is outside of the 44 Ranch Park service area, some parkland dedication to the east of George Elmer Drive was required. (*Agency Comment from N. Miner, November 5, 2020*)
6. The subdivider proposed two options for meeting the parkland dedication requirement: Cash in lieu of 2.92 acres of parkland and dedication of 0.15 acres of multi-use trail easement for Tipperary Way Trail, or; cash in lieu of 1.46 acres of parkland and 1.46 acres of dedicated common area to be platted to the east of George Elmer Drive, and dedication of 0.15 acres of multi-use trail easement. (*Preliminary Plat, Subdivision Application Pages 28-29*)
7. Residents of residential subdivisions to the south expressed concern via public comment regarding the potential for land uses such as multi-dwelling and mixed-use within Mcnett Flats that differ from the existing single-dwelling type development in their neighborhood. To provide a buffer between land uses and to meet the recreational needs of residents, staff recommended dedication of a multi-use trail and easement totaling approximately 0.9 acres in common area extending south from Remington Drive and running along the south boundary of the subdivision, with the remainder of the dedication being cash in lieu of parkland. The common area would have had to meet Parks and Recreation Department requirements for design, vegetation, construction, and maintenance, with maintenance performed by a lot owners association. (*March 5, 2021 Memo from D. DeGrandpre to City Council*)
8. City Council found that a more defined buffer was necessary, and approved the following configuration of parkland dedication, as required by condition of approval #22: provide a 20-foot wide multi-use trail easement extending south from Remington Drive to the southwest corner of the subdivision, then east along the south boundary of Lot 6 until adjacent to the southern bend in the alley west of Lot 38 of 44 Ranch Subdivision Phases 1 and 2, where it shall transition into a 40-foot wide multi-user trail easement extending to the east boundary of the subdivision (see sketch provided with the conditions). Within the easement the developer shall construct a 10-foot wide multi-use trail meeting the requirements of the Parks and Recreation Department. The remainder of required parkland dedication shall be

provided with cash in-lieu of parkland. Note: This condition negates the need for a 10-foot public access easement on Lot 6.

9. Furthermore, to address concerns that adequate physical parkland be provided, City Council approved a condition proposed by the applicant to require compliance with the activity area requirement of Title 20 Section 20.65.020.C if multi-dwelling or mixed-use development that includes 10 or more dwelling units occurs on Lot 2, 3, 4, or 5 during building permit review. If activity area is required on either Lot 4 or 5, the 40-foot wide easement shall be counted toward the activity area requirement. The applicant is required to submit a letter of approval from Parks and Recreation addressing common area requirements for design, vegetation, construction, and maintenance prior to final plat application submittal.
10. The subdivision application includes a preliminary boulevard landscaping and maintenance plan. Per Section 5-050.4 of the City Subdivision Regulations, a boulevard landscaping and maintenance plan is required to be reviewed and approved prior to final platting, which is included as a condition of approval.
11. Section 5-020.14.K of the City Subdivision Regulations requires that a management plan be developed to address noxious weeds. The subdivision application contains a weed management plan developed in conjunction with the Missoula County Weed District. The plan prioritizes prevention and eradication of noxious weeds and revegetation after soil disturbance. Condition of approval #24 requires that the final covenants include the revegetation plan and evidence of plan implementation to be submitted to Development Services prior to final plat application submittal. (*City Subdivision Regulations Section 5-020.14.K, Weed Management Plan*)

Conclusions of Law:

1. Parkland dedication is required in this subdivision in accordance with the City Subdivision Regulations. City Council determined that the subdivider's proposal will meet the parkland dedication requirements if the condition of approval amended by City Council is imposed and met.
2. The City Subdivision Regulations require plans for boulevard landscaping, which will be reviewed and approved prior to final plat application submittal if the approved condition of approval is imposed and met.
3. City Council determined that minimal impacts on local services are expected if the approved condition to manage noxious weeds is imposed and met.

Schools Findings of Fact:

1. The proposed subdivision is located within the Hellgate Elementary and Missoula County Big Sky High School Districts. The subdivision is not on an existing school bus route. (*Subdivision Application pages 26 and 18*)
2. The application states if the subdivision were to contain approximately 650 apartment units, 250 – 300 school-age children could be added to the districts at full build-out. The application states this subdivision is unlikely to have any adverse

impacts on the existing facilities or ability to teach existing students. (Subdivision Application page 26).

3. Comments on this application were sought but not received from school district representatives. (*Agency Review List*)

Conclusions of Law:

1. The proposed subdivision is located within the Hellgate Elementary and Big Sky High School Districts. The subdivision is not on an existing school bus route.
2. City Council found that the subdivision could house a significant number of school-age children.

CRITERION 3 & 4: EFFECTS ON THE NATURAL ENVIRONMENT AND WILDLIFE AND WILDLIFE HABITAT

Findings of Fact:

1. The subject property was historically used for agricultural production. It does not have trees or significant vegetative cover except for trees lining the irrigation ditch along the east boundary. (*Subdivision Application page 8, Personal Observation*)
2. The subject property is not adjacent to any public lands or contain any known historical structures or sites. (*Environmental Assessment page 8*)
3. The United States Geological Service quadrangle map for the area shows a branch of Grant Creek running through the property. This former channel has not conveyed water since the 1950s, when Grant Creek was channelized and rerouted to its present location to the north of the parcel. (*Subdivision Application page 12*)
4. The property has no naturally occurring surface water, wetlands, or floodplains. The hydrogeologic evaluation technical memorandum states groundwater may rise to within 13 – 17 feet of the ground surface under 100-year storm conditions. The only water source is an irrigation ditch that runs along the east property boundary. (*Vicinity Map, Aerial Photos, Personal Observation, Floodplain Map, Technical Memorandum*)
5. The subdivision application submittal contains a hydrogeologic evaluation that assesses the risk to groundwater quality impacts from the use of sumps to manage stormwater following a 100-year storm event. The evaluation concludes the use of sumps will not significantly impact concentrations in nitrate in groundwater below or beyond the site boundary. (*Newfields Hydrogeologic Evaluation Technical Memorandum*)
6. The property is not known to contain critical plant communities or support vegetative species of concern. (*Subdivision Application page 13, Vegetation Map*)
7. Section 5-020.14.K of the City Subdivision Regulations requires that a management plan be developed to address noxious weeds. The covenants, conditions, and restrictions contain a noxious weed management plan developed in conjunction with the Missoula County Weed District. Condition of approval #24 requires that the final covenants include the weed management plan and evidence of plan implementation to be submitted to Development Services along with final plat application submittal.

(City Subdivision Regulations Section 5-020.14.K, Noxious Weed Management Plan)

8. Two residential subdivisions are located immediately to the south. A 152-lot residential subdivision adjacent to the property to the west received preliminary approval in October of 2020 and is in the early stages of development. The property is located between Mullan Road and West Broadway, an area planned for urban development. *(44 Ranch, Flynn Ranch, and Remington Flats Subdivision Plats, Sxwtpqyen Area Master Plan)*
9. The subdivision is within the known range distribution of grizzly bear, ruffed grouse, pheasant, white-tailed deer, Hungarian partridge, gray wolf, dusky grouse, black bear, mountain lion, spruce grouse, and sharptail grouse. Given its agricultural use and vegetation, the property likely directly serves as habitat for deer, foxes, skunks, rodents, raptors, and other bird species. Section 12 of the covenants, conditions, and restrictions includes information for lot purchasers about living with wildlife and advises lot owners of potential issues associated with wildlife concerning pets, garbage, and other potential areas of conflict. *(Subdivision Application page 15, Covenants Conditions and Restrictions page 3)*

Conclusions of Law:

1. City Council determined that minimal impacts to the natural environment and wildlife habitat are expected as a result of this subdivision if the approved condition to manage noxious weeds is imposed and met.

CRITERION 5: EFFECTS ON PUBLIC HEATH AND SAFETY

Hazardous Land Findings of Fact:

1. Subdivision Regulations Section 3-010.2 requires the mitigation of hazards to subdivision development, including but not limited to flooding and slopes of 25% or more.
2. The subject property is outside of the FEMA-identified 1% annual chance flood hazard areas and floodplain. *(Floodplain Map)*
3. The property does not contain significant areas of slopes of 25% or more. *(Existing Site Conditions Map, Field Observation, USGS Topographic Map)*

Conclusions of Law:

1. City Council found that no effects on public health and safety from hazardous lands are anticipated.

Airport, Air Quality, and Radon Findings of Fact:

1. A portion of the property is located with the extended approach and departure area for Missoula International Airport. An avigation easement exists for the property and Section 16 of the covenants, conditions, and restrictions provides notice to lot purchasers of the airport influence/affected area. This information shall be included in the final covenants document and the standard airport influence statement shall be printed on the final plat. *(Covenants, Conditions, and Restrictions)*

2. The property is located within an air stagnation zone. The covenants, conditions, and restrictions shall be amended to include language prohibiting wood burning devices (fire places, wood burning and pellet stoves, etc.) per condition of approval #26.
3. Radon gas is a leading cause of lung cancer in the United States and is most easily addressed when a home is initially constructed. The Environmental Protection Agency has designated the Missoula area as having high radon gas potential. Thus, the Missoula City-County Health Department recommends that all new construction incorporate radon resistant construction features. This statement shall be included in the covenants, conditions, and restrictions per condition of approval #26. (*Agency Comment, B. Schmidt, Missoula City-County Public Health Department*)

Conclusions of Law:

1. City Council determined that if the covenants include the airport influence area, wood burning device, and radon information as described above and if the airport influence area statement is printed on the plat, an acceptable level of adverse impacts to public health and safety is expected as a result of this subdivision.

C. COMPLIANCE: SURVEY REQUIREMENTS, SUBDIVISION REGULATIONS AND REVIEW PROCEDURES

Survey Requirements Findings of Fact:

1. The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3. Forthcoming review of the final plat will ensure compliance with state platting law.

Conclusions of Law:

1. City Council found that procedures are in place to ensure the final plat complies with state surveying law.

Subdivision Regulation Compliance Findings of Fact:

1. Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusions of Law:

1. City Council determined that the Mcnett Flats Subdivision complies with the City of Missoula Subdivision Regulations with the approved conditions of approval.

Review Procedures Compliance Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Article 4 of the Missoula City Subdivision Regulations and Part 6 of the Montana Subdivision and Platting Act.
2. The subdivider held the required neighborhood meeting on June 15, 2020.
3. The subdivision pre-application meeting and application element and sufficiency reviews were conducted as per local and state requirements.
4. A public hearing before the Missoula Consolidated Planning Board took place on February 2, 2021 and a public hearing before the Missoula City Council took place

on February 22, 2021. Notice for these hearings was mailed to adjacent property owners and posted on the site January 15, 2021 and published in the Missoulian January 17 and 24, 2021. All notice was provided at least 15 days prior to the hearings as required by law.

5. The 60 working day review period ended on March 3, 2021. The subdivider granted a one-week extension that created a new review period deadline of March 10, 2021. Council granted preliminary approval on March 8, 2021, within the review period.

Conclusions of Law:

1. City Council determined that the subdivision review procedure was carried out in conformance with local and state requirements.

D. PROVISION OF EASEMENTS FOR UTILITIES AND PHYSICAL ACCESS

Provision of Easements for Utilities Findings of Fact:

1. City Subdivision Regulations Section 3-060 requires that easements be provided for utilities, drainage, ditch, vehicular, and pedestrian access, and that easements be reviewed and approved by the City Engineering Division. Condition of approval #9 addresses this requirement.
2. Access to utilities will be provided to the subdivision from the south and west within public access and utility easements and public rights-of-way. (*Preliminary Plat*)
3. All utilities necessary to serve the subdivision, including water, sewer, electrical, and power, will be located within public access and utility easements and public rights-of-way. (*Preliminary Plat*)

Conclusions of Law:

1. City Council determined that utility services are available to this subdivision and the subdivision will be in compliance with the Subdivision Regulations if the approved condition of approval is imposed and met.

Provision of Legal and Physical Access Findings of Fact:

1. Legal and physical access will be provided to the subdivision from Tenderfoot Way, Old Ranch Road, Winchester Drive and Remington Drive, which are or will be publicly dedicated streets within the Missoula city limits. Each lot is designed with at least one access to a public street. (*Preliminary Plat*)

Conclusions of Law:

1. City Council found that legal and physical access will be provided to the subdivision and each lot in the subdivision.

E. VARIANCE REQUESTS

Variance Request #1:

A variance was requested from Article 3, Section 3-020 Table .2A of the City Subdivision Regulations, which prescribes the geometric design of roads and streets. George Elmer Drive is functionally classified as an Urban Collector with parking, which requires a minimum 90-foot right-of-way width. The applicant requested to vary from the required right-of-way width to allow an 80-foot right-of-way for George Elmer Drive (*City Subdivision*

Regulations; Mcnett Flats Subdivision Packet, Section 1: Project Summary, Section 5: Variance Requests, Preliminary Plat).

Council Action

City Council **approved** the variance request, allowing improvements on George Elmer Drive to be made within an 80-foot wide right-of-way, based on the following findings of fact:

Findings

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

City Council determined that this variance does not result in a threat to public safety, health, or welfare, and is not injurious to other persons or property. The proposed cross-section of George Elmer Drive provides street improvements that comply with all of the standards of Article 3, Section 3-020 Table .2A for an Urban Collector with Parking, with the exception of the required 90-foot right-of-way width. These improvements include 10-foot wide driving lanes, 8-wide parking lanes, 6-foot wide sidewalks, 9.5-foot wide boulevards, and 6-foot wide bike lanes. These improvements fit within the proposed 80-foot right-of-way. (*Mcnett Flats Subdivision Packet, Section 20: Preliminary Construction Plans*)

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

City Council determined that the conditions upon which the request for a variance are based are unique to the property due to the right-of-way width of the existing portion of George Elmer Drive, previous roadway plans, and no evident need for a center turn lane at the time of this request as determined by a traffic impact study. In case additional space is needed in the future, the preliminary plat shows 5-foot additional public access and utility easements along both sides of the George Elmer Drive right-of-way. (*Mcnett Flats Subdivision Packet, Section 5: Variance Requests*)

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

The existing, southern portion of George Elmer Drive exists within an 80-foot right-of-way as shown on plats of the 44 Ranch, Flynn Ranch, and Heron's Landing Subdivisions. On the subject property and the property to the north, the dedicated right-of-way for the northern extension of George Elmer Drive is indicated as being 80-feet wide on Certificates of Survey number 6109 and 5699. City Council determined that the owner would be forced to endure a hardship by the strict enforcement of the regulation by being required to dedicate right-of-way that exceeds expectations set by property documents and surrounding developments. (*Mcnett Subdivision Packet, Section 5: Variance Requests*).

D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.

City Council Determined that the variance will not violate the provisions of the Missoula City Zoning Ordinance or the *Our Missoula 2035 City Growth Policy*.

E. The variance will not cause an increase in public costs.

City Council determined approval of the variance will not cause an increase in public costs.

F. The hardship has not been created by the applicant or the applicant's agent or assigns.

City Council determined the hardship has not been created by the applicant or the applicant's agent.

Variance Request #2:

A variance was requested from Article 3, Section 3-020 Table .2A of the City Subdivision Regulations, which prescribes the geometric design of roads and streets. Old Ranch Road is functionally classified as an Urban Local Street, which requires a minimum 80-foot right-of-way width. The applicant requested to vary from the required right-of-way width to allow a 64-foot right-of-way for Old Ranch Road. (*City Subdivision Regulations; Mcnett Flats Subdivision Packet, Section 1: Project Summary, Section 5: Variance Requests, Preliminary Plat*).

Council Action

City Council **approved** the variance request, allowing improvements on Old Ranch Road to be made within a 64-foot wide right-of-way, based on the following findings of fact:

Findings

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

City Council determined that this variance does not result in a threat to public safety, health, or welfare, and is not injurious to other persons or property. The proposed cross-section of Old Ranch Road provides street improvements that comply with all of the standards of Article 3, Section 3-020 Table .2A for an Urban Local Street, with the exception of the required 80-foot right-of-way width. These improvements include 10-foot wide driving lanes, 8-wide parking lanes, 5-foot wide sidewalks, and 7-foot wide boulevards. These improvements fit within the proposed 64-foot right-of-way. (*Mcnett Flats Subdivision Packet, Section 20: Preliminary Construction Plans*)

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which the request for a variance are based are unique to the property due to the right-of-way width of the existing portion of Old Ranch Road, previous roadway plans, and no evident need for a center turn lane at the time of this request as determined by a traffic impact study. (*Mcnett Flats Subdivision Packet, Section 5: Variance Requests*)

- C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.**

The existing, southern portion of Old Ranch Road exists within a 60-foot right-of-way as shown on the final plat of the Flynn Ranch Subdivision. City Council found that the owner would be forced to endure a hardship by the strict enforcement of the regulation by being required to dedicate right-of-way that exceeds expectations set by surrounding developments and is not necessary. (*Mcnett Subdivision Packet, Section 5: Variance Requests*)

- D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.**

City Council found that the variance will not violate the provisions of the Missoula City Zoning Ordinance or the *Our Missoula 2035 City Growth Policy*.

- E. The variance will not cause an increase in public costs.**

City Council found that approval of the variance will not cause an increase in public costs.

- F. The hardship has not been created by the applicant or the applicant's agent or assigns.**

City Council determined the hardship has not been created by the applicant or the applicant's agent.

Variance Request #3:

A variance was requested from Article 3, Section 3-020 Table .2A of the City Subdivision Regulations, which prescribes the geometric design of roads and streets. Winchester Drive, Briar Way, Remington Drive, and Abby Lane are functionally classified as Urban Local Streets, which require a minimum 80- foot right-of-way width. The applicant requested to vary from the required right-of-way width to allow 64-foot rights-of-way for Winchester Drive, Briar Way, Remington Drive, and Abby Lane (*City Subdivision Regulations; Mcnett Flats Subdivision Packet, Section 1: Project Summary, Section 5: Variance Requests, Preliminary Plat*).

Council Action

City Council **approved** the variance request, allowing improvements on Winchester Drive, Briar Way, Remington Drive, and Abby Lane to be made within a 64-foot wide right-of-way, based on the following findings of fact:

Findings

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.**

This variance does not result in a threat to public safety, health, or welfare, and is not injurious to other persons or property. The proposed cross-sections of Winchester Drive, Briar Way, Remington Drive, and Abby Lane each provide street improvements that comply with all of the standards of Article 3, Section 3- 020 Table

.2A for Urban Local Streets, with the exception of the required 80-foot right-of-way width. These improvements include 10-foot wide driving lanes, 8-wide parking lanes, 5-foot wide sidewalks, and 7-foot wide boulevards. These improvements fit within the proposed 64-foot right-of-way. (*Mcnett Flats Subdivision Packet, Section 20: Preliminary Construction Plans*)

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

City Council determined that the conditions upon which the request for variance are based are unique to the property because of precedent roadway plans of the adjacent Remington Flats Subdivision, which provide 64-foot rights-of-way for Winchester Drive and Remington Drive, are planned to be extended eastward onto the subject property (*Mcnett Flats Subdivision Packet, Section 5: Variance Requests, Remington Flats Approved Preliminary Plat*).

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

The previously approved portions of Winchester Drive and Remington Drive in the Remington Flats Subdivision exist within 64-foot rights-of-way. City Council found the owner would be forced to endure a hardship by the strict enforcement of the regulation by being required to dedicate right-of-way that exceeds expectations set by surrounding developments. (*Mcnett Subdivision Packet, Section 5: Variance Requests*).

D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.

City Council found that the variance will not violate the provisions of the Missoula City Zoning Ordinance or the *Our Missoula 2035 City Growth Policy*.

E. The variance will not cause an increase in public costs.

City Council found that approval of the variance will not cause an increase in public costs.

F. The hardship has not been created by the applicant or the applicant's agent or assigns.

City Council determined the hardship has not been created by the applicant or the applicant's agent.

Variance Request #4:

A variance was requested from Article 3, Section 3-030.2.A(2) of the City Subdivision Regulations, which states that blocks may not exceed 480 feet in urban-suburban subdivisions. The applicant requested to vary from the required maximum block length to allow Lot 1 to be approximately 609 feet wide (*City Subdivision Regulations; Mcnett Flats Subdivision Packet, Section 1: Project Summary, Section 5: Variance Requests, Preliminary Plat*).

Council Action

City Council **approved** the variance request, allowing Lot 1 to exceed 480 feet in length based on the following findings of fact:

Findings

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

City Council determined that the extended block will not result in a threat to public safety, health, or welfare. The City of Missoula Fire Department did not indicate that the extended block length will be a threat to the ability to respond to emergencies. Adequate circulation would be provided through George Elmer Drive, Briar Way, and Winchester Drive. A 10-foot wide public access easement north of Briar Way is intended to provide pedestrian connectivity to future development to the north of the subdivision and break up the block (*Mcnett Flats Subdivision Packet, Section 1: Project Summary; Section 5: Variance Requests; Preliminary Plat*).

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

City Council found that the conditions upon which the request for variance are based are unique to the property due to the need to connect with Winchester Drive in the Remington Flats Subdivision to the west and George Elmer Drive to the east. (*Mcnett Flats Subdivision Packet: Section 5 – Variance Requests*).

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

City Council determined that the existence of the adjacent Winchester Drive in the Remington Flats Subdivision and the existing George Elmer Drive right-of-way result in a challenging design circumstance that results in this variance request. Strict enforcement of the requirement would be a hardship. (*Mcnett Flats Subdivision Packet: Section 5 – Variance Requests*)

D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.

City Council found that the variance will not violate the provisions of the Missoula City Zoning Ordinance or the *Our Missoula 2035 City Growth Policy*.

E. The variance will not cause an increase in public costs.

City Council found that approval of the variance will not cause an increase in public costs.

F. The hardship has not been created by the applicant or the applicant's agent or assigns.

City Council determined the hardship has not been created by the applicant or the applicant's agent.

Variance Request #5:

A variance is requested from Article 3, Section 3-030.2.A(2) of the City Subdivision Regulations, which states that blocks may not exceed 480 feet in urban-suburban subdivision. The applicant requested to vary from the maximum block length to allow Lot 6 to be approximately 627 feet wide. (*City Subdivision Regulations; Mcnett Flats Subdivision Packet, Section 1: Project Summary, Section 5: Variance Requests, Preliminary Plat*)

Council Action

City Council **approved** the variance request, allowing Lot 6 to exceed 480 feet in length based on the following findings of fact:

Findings

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

City Council determined that the extended block will not result in a threat to public safety, health, or welfare. The City of Missoula Fire Department did not indicate that the extended block length will be a threat to the ability to respond to emergencies. Adequate circulation would be provided through Briar Way, Remington Drive, and George Elmer Drive. Due to the existence of an alley adjacent to Lot 6, connectivity and continuation of a street grid to the south is not a priority on this lot. (*Mcnett Flats Subdivision Packet, Section 1: Project Summary; Section 5: Variance Requests; Preliminary Plat*)

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

City Council found that the conditions upon which the request for variance are based are unique to the property due to the need to connect with Winchester Drive in the Remington Flats Subdivision to the west and George Elmer Drive to the east. (*Mcnett Flats Subdivision Packet: Section 5 – Variance Requests*).

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

City Council found that the existence of and need to connect to Remington Drive to the west the existing George Elmer Drive right-of-way to the east set the conditions for this variance. Denying it would result in a hardship to the owner. (*Mcnett Flats Subdivision Packet: Section 5 – Variance Requests*).

D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.

City Council found that the variance will not violate the provisions of the Missoula City Zoning Ordinance or the *Our Missoula 2035 City Growth Policy*.

E. The variance will not cause an increase in public costs.

City Council found that approval of the variance will not cause an increase in public costs.

F. The hardship has not been created by the applicant or the applicant's agent or assigns.

City Council determined the hardship has not been created by the applicant or the applicant's agent.

Variance Request #6:

A variance was requested from Article 3, Section 3-020.3H(2) of the City Subdivision Regulations, which states subdivisions abutting existing streets must provide dedication of right-of-way to meet the requirements of Table .2A as measured from the center line of the street and extending along the entire frontage of the street. The subject property is adjacent to Pius Way to the south, which requires an 80- foot wide dedicated right-of-way per its classification as an Urban Local Street. The applicant requested to vary from the required right-of-way width to allow Pius Way to maintain a 54-foot wide right-of-way. (*City Subdivision Regulations; Mcnett Flats Subdivision Packet, Section 1: Project Summary, Section 5: Variance Requests, Preliminary Plat*)

Council Action

City Council **approved** the variance request, allowing Pius Way to maintain a 54-foot right-of-way.

Findings

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

City Council found that the granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property. Pius Way includes appropriate half-street improvements that align with the required standards for Urban Local Street described in Article 3-020 Table .2A, with the exception of an 80-foot wide right-of-way dedication. Lots 4 and 5 of the proposed subdivision will include a 10-foot wide multi-use path in lieu of a sidewalk, as required by the Mullan BUILD Grant Project, that is proposed to exist within a 40-foot wide public access easement on Lot 4 and Lot 5 as amended by City Council. (*Mcnett Flats Subdivision Packet, Section 1: Project Summary; Section 5: Variance Requests; Preliminary Plat*)

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

City Council found that the conditions upon which the request for variance are based are unique to the property and include the existing width, drainage improvements, and configuration of Pius Way, and the requirement of a commuter trail per the Mullan BUILD Grant. (*Mcnett Flats Subdivision Packet, Section 5: Variance Requests*)

- C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.**

Pius Way is an existing and fully constructed public street and right-of-way, and in combination with the required commuter trail per the Mullan BUILD Grant, the ability to dedicate the full 80-feet of right-of-way is constrained. As such, requiring additional right-of-way would be unnecessary and result in a hardship. (*Mcnett Flats Subdivision Packet, Section 5: Variance Requests*)

- D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.**

City Council found that the variance will not violate the provisions of the Missoula City Zoning Ordinance or the *Our Missoula 2035 City Growth Policy*.

- E. The variance will not cause an increase in public costs.**

City Council found that approval of the variance will not cause an increase in public costs.

- F. The hardship has not been created by the applicant or the applicant's agent or assigns.**

City Council determined the hardship has not been created by the applicant or the applicant's agent.